Deutsche Post 2006: An Updated Critique of Domestic Monopoly Fueling Global Growth

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Summary

This update reviews Deutsche Post’s expansion since the 2004 Economic Strategy Institute study that analyzed the firm’s privatization. In that study, we concluded: “The potential threat is that U.S. firms will face competitors from Europe or other nations that will use their monopoly positions in domestic markets to cross-subsidize their operations in the United States and around the globe.” This examination only reinforces our original analysis that Deutsche Post, and its wholly-owned subsidiary DHL, will exploit its domestic monopoly to compete unfairly with U.S. and other international express delivery firms that have obeyed the rules of competitive markets.

ESI’s earlier study “found that Deutsche Post appears to be using its monopoly status in the postal services area to cross-subsidize its effort to enter new areas of business, such as express delivery, and to pose a competitive threat to U.S. companies, such as FedEx and UPS.” These findings were based upon our examination of the firm’s financial reports, analysts’ reports, studies by consulting firms, and findings from the European Commission. The NERA Economic Consulting Group’s report showed that Deutsche Post’s returns were clearly above the cost of capital and that monopoly earnings provide 49 percent of Deutsche Post’s profits. There were two key decisions by the European Commission’s Competition Directorate. The first, that Deutsche Post had abused its monopoly power by underpricing its services in European markets. The second was that Deutsche Post had unfairly used state aid to cross-subsidize services it was offering in Europe outside of Germany. Fines in both cases underscore the point that Deutsche Post can resort to acting as a monopolist.

Based on these facts, ESI concluded that “if there is no agreement on setting an international framework for dealing with problems like those in express delivery services in GATS and/or other fora, the negative consequences for U.S. express delivery firms will be serious.”

As policy responses to the issues ESI identified, we offered three recommendations. First, “an investigation by the International Trade Commission into the trade and competition implications of liberalizing state-owned monopolies, such as postal monopolies that are extending their operations into express delivery services.” Second, that “the U.S. Trade Representative and the Department of Justice …act in concert with their counterparts in the European Commission to establish international protocols for addressing the trade and competition issues raised by the liberalization of monopoly markets.” Third, that “Congress support additional investigations and analyses to build upon the present one, hopefully leading to a better GATS “request-offer” negotiating process or a pro-competitive regulatory reference paper that would identify improved approaches to anticompetitive behavior in the express delivery industry.”

The International Trade Commission did conduct a study similar to the one ESI recommended. It noted that anticompetitive practices posed a challenge to U.S. express delivery firms, stating “U.S.-based express delivery providers increasingly compete with foreign postal firms that provide express delivery services in addition to monopoly protected letter mail delivery services. In such instances, competition may be impeded by anticompetitive monopoly practices, such as postal firms’ use of profits from monopoly-protected services to support services offered in competition.” But it did not highlight the major problem identified in the ESI study – how Deutsche Post exploited its monopoly position in domestic mail delivery to unsettle the express delivery markets.

Moreover, neither the U.S. Trade Representative nor the Department of Justice established international protocols to address the trade and competition issues raised by ESI. Congress did not undertake investigations or support analyses that could improve the GATS negotiating process, nor did it seek a pro-competitive reference paper to identify better approaches to anticompetitive behavior in the express delivery industry.
This update was undertaken to see if the situation with Deutsche Post had changed. We reviewed its international expansion and examined whether its domestic mail monopoly was continuing. The main findings of this ESI update are summarized in the paragraphs that follow.

After this new review, ESI has found that Deutsche Post’s monopoly in the German mail delivery market continues to fuel its rapid global expansion. Deutsche Post continues to get 40 percent of its profits – down from 49 percent in our earlier study. It now ranks as the world’s largest logistics firm and one of the most powerful international express delivery firms. Its mail profits facilitate aggressive acquisitions of top-level firms in logistics and express delivery, providing a vehicle for expansion without the need to grow operations internally. These profits also underpin its ability to overcome difficult integration challenges, such as turning around an unprofitable DHL Americas and melding together disparate national express delivery firms into a unified European group with a single management and workflow system.

Deutsche Post’s 2003 acquisition of Airborne Express in the United States is a case-in-point. Deutsche Post expects it to have nearly $2 billion in losses from 2003 to 2007. Nevertheless, Deutsche Post is doggedly sticking by its unprofitable investment because it expects to turn it around successfully and gain industry-level returns. But this long road is a choice. Without this acquisition, establishing a U.S. presence would have required years of spending in one of the world’s largest express delivery markets.

Deutsche Post has several reasons for staking out this position in the U.S. market. One is to establish an immediate presence in the world’s largest express delivery and logistics market. Another is to support dynamic operations in Europe and Asia. Less-well recognized is Deutsche Post’s gamble on a potential upside should Europe and the United States sign an Open Skies agreement. This would not only let Deutsche Post (often DHL’s leased or licensed carriers) fly cargo planes into the United States, but also permit flights from the United States into other markets.

We continue to believe that Deutsche Post’s success in transforming itself from a state-owned monopoly into a formidable private corporation should raise concerns among policymakers. After benefiting from extensive state subsidies and special treatment, Deutsche Post’s growth into a major logistics and express delivery firm is serving as an example for other monopolies that are being privatized, such as Japan Post. We continue to be concerned that the unregulated privatization of former state-owned monopolies in the postal and express delivery industries could have significant consequences for the development of a fair playing field for an industry that is so critical to the global economy.

ESI continues to believe that it is important for the U.S. International Trade Commission to examine the potential impact of Deutsche Post’s domestic monopoly on its international operations, including its efforts to expand its presence in the United States. ESI also continues to hope that the U.S. Trade Representative will press for international protocols and changes in the General Agreement on Trade in Services (GATS) to address trade and competition issues raised by the liberalization of monopoly markets.

**Deutsche Post’s Recent Expansion**

Over the 2005-2008 period, Deutsche Post is expected to increase its total revenues from $47 billion to $69 billion, a 48 percent increase. The largest share of this increase is likely to be due to the growth of DHL Logistics, largely because of the Exel acquisition. This business area is forecast to grow from $10 billion in 2005 to $26 billion in 2008. The DHL Express business area is forecast to grow from $22 billion in 2005 to $27 billion in 2008, a more modest increase due to the restructuring efforts in Europe and the Americas. The mail group is likely to experience the slowest growth, expanding from $15 billion in 2005 to $16 billion in 2008, due to additional opening of the German market to competition.
Deutsche Post Revenues and Estimated Revenues, 2003-08 in Billions of Dollars -- MorganStanley

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The Exel acquisition will be the biggest contributor to growth in recent years. Logistics growth is forecast to account for about three-fourths of revenue growth over the 2003-2008 period, with much of that revenue coming from the addition of Exel. With Exel consolidated in Deutsche Post’s accounts in 2006, it will most likely add more than $14 billion (11 billion Euros) in additional revenues. While its DHL Express business is growing rapidly in Asian markets (about 10 percent per year), it is experiencing slower growth in Europe and the Americas. After a recovery in 2006, DHL Americas’ revenues are expected to expand by nearly 15 percent between 2006 and 2008. Postal mail revenues are expected to increase very slightly between 2003 and 2008.

Deutsche Post is an interesting investment opportunity in the eyes of investment banks because it has the ability to generate a 12 percent compound growth in its Earnings per Share (EPS) over the 2005-2008 period based on a $1.3 billion increase in profits. This will be possible for two reasons. First, Deutsche Post is expected to be able to restructure its DHL Express operations in Europe and the United States so that they add $1.2 billion to corporate profits. Second, cost cutting in Germany will offset losses of 9 percent in profits from Mail operations.

Nevertheless, Deutsche Post is still gaining 40 percent of its total profits from the German mail market and although competitors may challenge these profits over the next few years, they will remain substantial. Deutsche Post has only two more years before it loses its monopoly on national letter mail that weighs less than 50 grams. The original mail monopoly has been gradually reduced to this weight over the period from 1997 to 2006. This has resulted in an expansion of the overall deregulated market from 24 percent to 35 percent of all mail in 2004. Despite this erosion of its monopoly, Deutsche Post was able to maintain its dominant position in the letter mail market. In 2001, Deutsche Post held 98 percent of the total German mail market. By 2004, this share had only declined to 95 percent. This is due to the fact that the largest volume of letter mail weighs less than 50 grams.

Mail revenues are likely to remain key to Deutsche Post’s growth. In spite of Morgan Stanley estimates that it could lose another 20 percent of the German mail market by 2012, Deutsche Post is likely to be able to make cost savings that would reduce the impact of its loss of market share. Between 2008 and 2012, profits in the mail division are forecast to drop from $2.7 billion to $1.8 billion, with lost profits in the mail division expected to be offset by new profits of nearly $400 million in international mail.
In spite of these forecast losses, Deutsche Post is likely to rely on its mail division to provide $1.5 billion to $2 billion in annual profits over the 2008-2012 period, funds that will probably support more international acquisitions. Even when the German mail market is fully liberalized, customers’ reliance on Deutsche Post will probably continue to give it an advantage.

One could conclude that the prior monopoly era and the network of postal services that were built - with government funds - during that period, provide enduring business advantages that Deutsche Post’s international competitors don’t have. This continuing market power lets Deutsche Post invest for the long term. It also provides the financial strength to plan for possible shifts in profitably, such as a change in the economics of the express delivery business, when logistics may matter more than they do today, resulting in higher logistics profit margins. In addition to greater margins, leadership in logistics might also offer great synergies with other business divisions.

Authorities have questioned many of Deutsche Post’s actions over the past decade. Indeed, in two separate cases, the European Commission’s Competition Directorate ruled that the Deutsche Post abused its monopoly position. It did this by resorting to predatory pricing, i.e., illegally using profits from its monopoly in letter delivery to subsidize its prices for business parcels, and by using public subsidies unlawfully to finance an aggressive pricing policy intended to undercut the prices of rivals in the parcel delivery market. More recently, the German Monopoly Commission has concluded that the “Federal Network Agency has not fulfilled its legal obligation to force Deutsche Post to present transparent accounting. Transparent accounting, with clear cost allocation between the monopoly and the parcel services that are open to competition, would at least make cross-subsidization in the areas of its competitive activities more difficult.” The Monopoly Commission also criticized the Federal Networking Agency’s reduction of letter postage fees of 4.7% as “too minimal.” It found that since Deutsche Post is exempt from sales taxes, the “competition must be able to offer at least 16% savings over the Deutsche Post prices in order to be competitive.” The Monopoly Commission concluded that “Deutsche Post’s tax privilege must be eliminated.”
The Monopoly Commission also found that Deutsche Post “obstructs competition through its standard practice of fighting the assignation of licenses for added-value services in court.” This results in considerable legal insecurities and a high risk of court proceedings for the competition, which then also complicates their access to bank loans.” The Monopoly Commission concluded that customers rather than courts should be able to decide upon the “added value of a service.”

In addition, the Monopoly Commission applauded the European Commission’s finding that “Deutsche Post’s refusal to allow commercial postal service providers access to their delivery network violates European law.” The Monopoly Commission welcomed this decision because it required “creating a comprehensive delivery service for the entire country” and counteracted a significant barrier to entry for new competitors. The Monopoly Commission also found that it is “essential that the Federal Network Agency conduct active monitoring of the abusive practices in order to assure access to the network that is free from discrimination and obstruction.

Without significant efforts to reduce Deutsche Post’s advantages in the domestic mail market, it is likely that it will continue to exploit these profits to cross-subsidize its overseas expansion. Thus, the lack of effective regulatory intervention to date suggests that governments must act when Deutsche Post operates in an anticompetitive manner.

**Deutsche Post’s Efforts to expand its Market Shares through Exel and DHL**

Deutsche Post has well-established global ambitions. It is quite willing to pay whatever the price to enhance its position as a global leader in logistics and express delivery. Over the past two years, Deutsche Post has paid premiums and borne extra costs in order to achieve these goals, sometimes exhibiting unusual endurance in the face of huge losses in the United States.

In exhibiting its strong resolve to gain a leadership position, Deutsche Post has always acquired important firms in European express delivery or logistics markets it has entered, often purchasing one of the three largest firms. It has been more than willing to bear the cost of integrating European operations into a single business entity, although this has required considerable time and investment.

It has invested aggressively to become the world’s leading global logistics firm – although brokerage firm analysts and its competitors regard this business as one with low profit margins that are likely to continue well into the future. When it purchased Exel, it more than doubled its existing logistics business in Europe, but Deutsche Post paid a premium of 40 percent over the market price. The Exel acquisition made Deutsche Post the largest contract logistics firm with $12.6 billion (9.7 billion Euros) of estimated sales in 2006, compared with $6.1 billion (4.7 billion Euros) for TNT, the number two.

To establish a foothold in the North American market, Deutsche Post has incurred substantial losses that will probably continue well into the future. A reasonable estimate of the potential losses based upon earnings before interest, taxes, and depreciation (EBITDA) for DHL Express Americas is $1.7 billion to $1.9 billion. With Airborne Express, Deutsche Post is upgrading the level of service and reorganizing its United States-based express delivery system with the goal of going head-to-head with FedEx and UPS. The State of Ohio has offered DHL low cost loans to bring its main mail center to Wilmington, Ohio, and has paid some integration costs. One estimate is that the losses for restructuring the U.S. operations might reach $700 million in 2006 as a result of service disruptions that cost $280 million in customer business.

Why is Deutsche Post willing to bet on a successful restructuring of DHL Americas? For several reasons, one of which is not seen in the data on DHL Americas itself. This is the 30 percent year over year growth in imports for its international express business that is driving much of DHL’s growth. A second reason is that with the restructuring of DHL’s U.S. operations, DHL Americas will likely end the lengthy period of losses in 2008, according to Morgan Stanley. Its forecasts have DHL Americas turning profitable in 2008,
with an EBITDA of $94 million. This reversal also contributes to an upswing in DHL’s EBITDA, which is expected to rise to $1.8 billion in 2008 from $1.4 billion in 2007. In addition, by raising service levels to more closely match those of UPS and FedEx in the United States, Deutsche Post hopes to capture a larger share of the more profitable corporate express business.

Exhibit 12

DHL US Break-Even: Mix of Cost, Yield and Volumes

Source: Company data, Morgan Stanley Research


Numbers from Morgan Stanley illustrate the depth of the problem that Deutsche Post faces with DHL Americas, but also suggests why its resolve is so strong. In 2004, DHL Americas profits dropped 11.4 from a year earlier, and profits were expected to decline 9 percent more in 2005, 5 percent in 2006, and 1.9 percent in 2007. Morgan Stanley expects that restructuring and higher prices will increase DHL Americas’ profits by 1.3 percent in 2008 and will result in a much higher profit margin after 2008. As a consequence, DHL Express’ total profits should rise from 2.4 and 2.1 percent, respectively, in 2003 and 2004, to 6.8 percent in 2008.

Morgan Stanley’s analysis predicates the turnaround of DHL Americas on several factors. These include roughly $250 million or more in cost savings due to the new engineering and organization of express deliveries in the United States. About $100 million of these savings is due to centralizing the DHL Express air hub in Wilmington, Ohio. Morgan Stanley also believes that DHL Americas will be able to make substantial progress in improving the yield or revenue per parcel. Historically, Airborne yields were 15-20 percent below those of its rivals because its quality of service was lower. By offering higher service, DHL Americas should be able to reduce the gap in yields enough to increase revenues by $180 million to $300 million in the next year. Much of the improvement in yields is likely to come in overnight and deferred deliveries, where the gap with FedEx and UPS is great, but there is also a significant gap on ground deliveries.

In August 2006, Deutsche Post reported that “the US express business is gaining momentum, and this positive trend will intensify in the second half of the year.” It also noted that revenues in the express
division for the Americas had stabilized in the second quarter of 2006 and that the $104 million addition to profits in the second quarter as compared to the first quarter had come mainly from the Americas region.

The Open Skies Agreement and Its Impact on Deutsche Post

Recently, there have been a series of United States-European Union talks to move the Open Skies Agreement to a conclusion. As an unofficial condition or precedent to the currently proposed text, the U.S. government has proposed relaxing restrictions on the foreign ownership of U.S. carriers. Reaching an agreement on Open Skies might mean that Deutsche Post would be able to own a U.S. air fleet that could land in the U.S. and fly between U.S. cities. We believe that such an agreement would very likely benefit foreign carriers far more than their U.S. counterparts unless there is a significant liberalization of the UK restrictions. Likewise, current proposed rule changes in the U.S. should offer Deutsche Post important advantages. We believe that the advantages for U.S. express delivery firms are limited unless the United Kingdom’s restrictions on flights are removed when the agreement is completed.

For Deutsche Post, owning and operating its own air fleet in the U.S. would improve its profitability. By reducing the large payments that DHL now makes to U.S.-owned airlines, Deutsche Post’s U.S. subsidiary, would retain more profits. It could also achieve the turnaround for its U.S. operations (mentioned just above) sooner.

At the present time, U.S. rules on foreign ownership of airlines require “no semblance of foreign control” over any airlines. U.S. “citizens” must run the airlines and a citizen is defined as a corporation or association organized under the laws of the United States. The president of the airline and at least two-thirds of the board or directors and other managing officers must be citizens of the United States. The airlines must be under the actual control of the citizens of the United States. In addition, 75 percent of the voting interest must be owned or controlled by persons that are citizens of the United States.

The Department of Transportation (DOT) is proposing to reinterpret the term “actual control.” This proposal would permit individual airlines to let foreign investors participate in commercial decision-making – but only if the majority U.S. “citizen” board members agree to delegate these powers to the foreign investor. In addition, “actual control” of a U.S. airline would only occur if three conditions are
met. First, foreign investment must come from a country with an Open Skies agreement with the United States that permits reciprocal investment opportunities to U.S. investors. Second, U.S. citizens control the airline’s organizational documents. Third, U.S. citizens must control the safety, security, and defense aspects of the operation of the airline. DOT is not proposing to change the Congressional statute. Consequently, only U.S. citizens would be able to make management decisions related to “organizational documents, safety, security, and U.S. airlines’ participation in Department of Defense programs – including CRAF.”

European negotiators have raised two issues that are proving to be deal breakers for the U.S. side. First, they want the U.S. to reduce the requirement for 75% U.S. ownership of its airlines. Second, they have demanded the right to fly between every city in the U.S. and to operate without restrictions on the number of flights, the aircraft used, or the routes chosen, including unlimited rights to fly beyond points in the U.S. to other countries. While the U.S. would obtain similar rights in Europe under an Open Skies Agreement, it would not affect the ability to fly into London’s Heathrow, the main European hub, even if the agreement were signed.

Congress has also expressed its concern about making sweeping changes in “foreign control.” This is a potent political issue, particularly after 9/11 and the 2006 Dubai Ports World deal where the Dubai port management company initially won approval to operate a number of U.S. ports, only to have to give up the contract due to security concerns.

Most recently, the Bush Administration has delayed new rules that would offer foreigners the opportunity to exert greater control over U.S. airlines. The reason given for the delay is that the Administration needs more time to consult with Congressional opponents of the rule changes. When the delay was announced, the European Commission said that it was staying with its position that the United States needed to loosen its position on airline ownership before it would accept any new “Open Skies” rules. The acting U.S. transportation secretary did reiterate the U.S. position that it hoped to conclude an E.U.-U.S. agreement by the end of the year.

ESI believes that concluding an Open Skies agreement could have fewer benefits for U.S. express delivery firms and U.S. airlines than was originally expected. We agree with Congressional critics that the national defense and other sensitive matters should be considered when the new rules are framed and that greater than 25 percent ownership could provide effective control of airlines. We think that Congress and the Department of Transportation should re-examine the economic benefits and losses tied to the completion of such an agreement before further action is taken. This should include considering several scenarios, one of which would be continued restrictions on flights into the United Kingdom.

Conclusions

Deutsche Post has pioneered a considerably different path to privatization than many other government entities. Rather than continuing to focus on domestic operations, it has used its monopoly position in domestic mail to fuel international growth - through its wholly owned subsidiary, DHL - reshaping the global delivery market.

This transformation might be lauded because of its consolidation of operations and greater efficiencies. But it is also troubling because it establishes a model of using a domestic monopoly to finance global expansion.

Here are some ways that policy makers could begin to address the problems identified in this review:

1. National and regional governments, such as the European Commission, as well as the World Trade Organization, should create better sector-specific regulation for former state-owned monopolies. Experience has demonstrated that national regulation of these monopolies has not worked well in Europe. As a consequence, U.S. trade negotiators and diplomats should
press the European Commission to adopt sector-specific regulations to address anti-competitive actions in service industries where former monopolies play an important role. This should include new legislation that gives the Commission’s Competition Directorate greater powers as well as the ability to intervene when a national monopoly is acting in an anticompetitive manner. These powers would permit the Competition Directorate to block an acquisition that lets a monopoly limit competition [including international competition] with its operations on a continent-wide level or national level.

2. Europe’s postal services liberalization process has not always attained its goal of creating competition and reducing the market power of the old monopolies. Consequently, the European Commission needs to take additional steps to insure that monopolies, such as Deutsche Post, cannot remain effective monopolies for years after their actual monopoly disappears – the Deutsche Post monopoly is to end in December 2007. This can be achieved by effective ex ante regulation in a fully liberalized postal market, controlling the former incumbents. If the German government continues to offer special tax treatment and privileges to Deutsche Post, the Commission’s Competition Directorate should intervene. U.S. policymakers need to emphasize the need for such vigilance to their European counterparts.

3. Deutsche Post has nearly always been willing to pay a premium and to bear losses for lengthy periods when it has expanded overseas. Many of its chief competitors don’t have its ability to draw upon monopoly profits to act in a similar fashion. To counter this problem, U.S. policymakers should press their European and Asian counterparts to create a global approach to anticompetitive behavior in the services that is based upon the international agreement covering telecommunications in the General Agreement on Trade in Services (GATS).

4. U.S. policymakers should also press the World Trade Organization to take action against governments that provide state aid to benefit former national monopolies. We have identified a series of ways that the German government favors specific outcomes in the postal and delivery industries in particular. If the World Trade Organization provided a way for governments to bring suit when such aid is used to support anti-competitive behavior, it would to provide affected countries with an antidote to behavior that we have seen in Germany. Challenges brought through the GATS or the World Trade Organization might insure greater competition in the postal and delivery services in the future.

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2 Ibid., p. 4.

3 Ibid., p. 2.


6 Cohen, op. cit., p. 4.

7 Cohen, op. cit., p. 5.

Chapters 3 and 4 did discuss the “Impediments to trade in express delivery services” and “Evolving remedies to impediments,” but anticompetitive practices were not identified as a key critical issue as they were in the ESI study.


Sanderse et al., op. cit., p. 33.

This is the baseline forecast that Morgan Stanley produced in its analysis.

Sanderse et al., op. cit., p. 34.

This measure of profits is based on Morgan Stanley’s estimate of EBITDA, earnings before interest, taxes, depreciation, and amortization.


This includes much of Airborne Express and other North, Central, and South American operations of DHL – that appear to be small relative to the express operations in the United States.

Sanderse et al., op. cit., pp. 11-12.

Sanderse et al., op. cit., p. 10.

xvi Ibid.

xvii Ibid.

xviii Ibid.

xix Ibid.


xxii Ibid.

xxiii Ibid.


xxv Sanderse et al., op. cit., p. 18.

xxvi Ibid.

xxvii This includes much of Airborne Express and other North, Central, and South American operations of DHL – that appear to be small relative to the express operations in the United States.

xxviii Sanderse et al., op. cit., p. 34. This total is for the 2004-2007 period. It includes losses of 495 million Euros in 2004, 445 million Euros in 2005, and estimated losses of 240 million Euros in 2006 and 100 Euros in 2007. This totals 1.28 billion Euros, or $1.7 billion at June 2006 exchange rates.


xxxi Valentine, op. cit., p. 2.

xxxii Sanderse et al., op. cit., p. 34.

xxxiii Ibid.

xxxiv Sanderse et al., op. cit., pp. 11-12.

xxxv Sanderse et al., op. cit., p. 35.

xxxvi Ibid.

xxxvii Ibid.

xxxviii Sanderse et al., op. cit., p. 10.

xxxix Ibid.

xl Ibid.

xli Sanderse et al., op. cit., p. 11.


xlii Ibid.

xlv DHL has contracts with a number of airlines that fly express delivery packages from its hubs in the United States including Northwest. See Northwest Airlines, “Senior Officers,”
http://www.nwa.com/corpinfo/peopl/senior/senior.shtml

xlv The Federal Aviation Act (title 49 of the USC) is a Congressional statute.

xlvi Congress gave the Department of Transportation these powers in 2003.


xlviii CRAF is the Civilian Reserve Air Fleet. It is made up of commercially owned aircraft that transport U.S. troops and officials in a national emergency, if the military needs additional aircraft to move personnel. The recent negotiations over the Open Skies agreement, particularly after 9/11, have had to respond to Congressional critiques that if U.S. airlines have more foreign ownership, foreign airlines’ business strategy or their allegiance to their home country might conflict with U.S. national security needs. At least one Congressman, Peter DeFazio (D-OR), has claimed that “During the Gulf War a European Union member didn’t supply us with a type of carrier we needed when we ran out because they didn’t support the war.”


lii Ibid.


liii U.S. Senate Committee on Commerce, Science and Transportation, Subcommittee on Aviation, op. cit., p. 3.


lv Eleanor M. Fox, “The WTO’s First Antitrust Case – Mexican Telecom: A Sleeping Victory for Trade and Competition,” Journal of International Economic Law 2006, volume 9, no. 2, pages 271-292. This article concludes that the General Agreement on Trade in Services (GATS) antitrust obligation [the GATS Annex on Telecommunications] for the telecommunications sector should be acknowledged as occupying an important place at the intersection of trade, competition and industrial policies. The GATS telecommunications agreements focus on anticompetitive practices including cross-subsidization. http://jiel.oxfordjournals.org/cgi/content/abstract/9/2/271